

## REMARKS

Applicant gratefully acknowledges the Examiner's withdrawal of rejections under 35 U.S.C. §§ 102(e) and 112 in response to Applicants arguments and amendments, filed January 9, 2004. Applicant respectfully requests reconsideration in view of the foregoing amendments and the remarks hereinbelow.

The Examiner objects to Claims 1, 7-8, 23-26, and 28, requiring Applicant to amend those Claims, replacing the phrase "first value" with the phrase "first signal value" and replacing the phrase "second value" with the phrase "second signal value." Applicant so amends.

Reconsideration of the Examiner's rejection of Claims 1-33 under 35 U.S.C. § 112, second paragraph, asking Applicant to overcome this rejection by explaining the meaning of "near continuous function" is respectfully requested.

The phrase "near continuous function" is known in the art. Applicant respectfully declines to invoke the right to be one's own lexicographer by presenting a specialized definition, instead leaving the phrase "near continuous function" to have that meaning which is understood by persons of skill in the art. Instead, Applicant provides three examples of near continuous functions and two counterexamples of non-near continuous functions for the purpose of illustration.

A first exemplary near continuous function is shown in Figure 15B and discussed in the paragraph beginning at Page 32, Line 17:

Typically, the color gain determiner 135 is implemented as a LUT. Fig 15B shows an example of such a LUT. Note that the output value of this LUT can assume more than 2 values, and the LUT is said to be a near continuous function. Since the LUT is a near continuous function, the value of Bc is a non-binary value. Applying a multidimensional LUT is well known in the art of image processing, and is described for example in US Patent No. 4,500,919, which issued February 19, 1985 and is entitled "Color Reproduction System", and which is incorporated herein by reference. In this display, white represents a value of approximately 1.65 and black represents a value of approximately 0.3.

[Ed.: LUT means "look up table."]

Another exemplary near continuous function is a calculation of a color weighting factor based on the location of a pixel within a color space, wherein the range of the function is (0.5, 1.0, 1.5). That is, the color weighting factor must be 0.5, 1.0, or 1.5.

Yet another exemplary near continuous function is a calculation of a color weighting factor based on the location of twenty pixels within a color space, wherein the weighting factor is

$$B_c(x, y) = \mu + \sum_{i=0}^P \mu_i \exp \left[ -\frac{1}{2} (w - m_i)^T k_i (w - m_i) \right],$$

where

$\mu = 1$ ,

$\mu_i$  is a constant representing the preferred ratio of the sharpness of color region pole  $i$ ,

$P$  is the number of color region poles,

$m_i$  is the mean vector of color region pole  $i$ ,

$k_i$  is the covariance matrix of color region pole  $i$ , and

$w$  is a vector representing the color of the local region of the image.

A first counterexample of a non-near continuous function is a calculation of a color weighting factor based on the location of a pixel within a color space, wherein the range of the function is (1.0, 1.33). That is, the color weighting factor must be 0.5 or 1.33 and the function is therefore binary.

A second counterexample of a non-near continuous function is a calculation of a color weighting factor based on the location of a pixel within a color space, wherein the range of the function is the set of Real Numbers within [0, 2]. That is, the color weighting factor must be a Real Number no less than 0 and no greater than 2 and the function is therefore continuous.

For the foregoing reasons, Applicant respectfully submits that the phrase “near continuous function” does not render Claims 1-33 indefinite.

Reconsideration of the Examiner’s rejection of Claims 26-33 under 35 U.S.C. § 101 as directed to non-statutory subject matter based on the presence in those claims of the terminology “computer program product” is respectfully requested. Applicant respectfully contends that the terminology “computer program product” does not render those claims non-statutory, as it corresponds at least to the statutory classification of *manufacture*. More importantly, as stated in

[http://www.uspto.gov/web/offices/pac/mpep/mpep\\_e8r2\\_2100\\_508.pdf](http://www.uspto.gov/web/offices/pac/mpep/mpep_e8r2_2100_508.pdf), all subject matter is statutory except abstract ideas, laws of nature, and natural phenomena:

The subject matter courts have found to be outside the four statutory categories of invention **is limited to** abstract ideas, laws of nature and natural phenomena. [Emphasis added.]

Applicant respectfully submits that the terminology "computer program product" is not an abstract idea, a law of nature, or a natural phenomenon. This becomes especially clear when one considers that the claims reciting "computer program product," also recite as an element, either directly or through dependency, **"a computer erasable storage medium."**

Furthermore, Applicant respectfully notes that the terminology "computer program product" is consistently allowed by the PTO. Nearly 10,000 patents have been issued containing the terminology "computer program product," according to a recent search of the U.S. Patent and Trademark Office website (<http://www.uspto.gov>):

<p><b>Results of Search in 1976 to present db for:</b> <b>"computer program product": 9677 patents.</b></p>
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Finally, Applicant notes that Claim 32 does not recite, directly or indirectly, the terminology "computer program product."

For the foregoing reasons, Applicant respectfully contends that Claims 26-33 are directed to statutory subject matter.

It is respectfully submitted, therefore, that in view of the above amendments and remarks, that this application is now in condition for allowance, prompt notice of which is earnestly solicited.

Respectfully submitted,



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